



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 15 2001

OFFICE OF
CIVIL RIGHTS

CERTIFIED MAIL # 7000 1670 0006 0858 9937
RETURN RECEIPT REQUESTED

In Reply Refer to:
EPA File No: 6R-01-R9

Ms. Carroll E. Cox, President
EnviroWatch, Inc.
P.O. Box 320
Waimanalo, Hawaii 96795

Mr. Joseph N. A. Ryan, Jr., Vice President
EnviroWatch, Inc.
41-430 Waikupanaha Street
P.O. Box 562
Waimanalo, Hawaii 96795

Re: Rejection of Title VI Administrative Complaint

Dear Ms. Cox and Mr. Ryan:

On April 23, 2001, you filed a complaint with the U.S. Environmental Protection Agency's Office of Civil Rights. The complaint alleges violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 by the State of Hawaii. More specifically, the complaint alleges that the State of Hawaii allowed a pumphouse to fall into a state of disrepair, which, in turn, allowed mercury to contaminate the area in a community of "Pacific Islanders, Blacks, Filipinos, Asians, and the Kanaka Maoli (Native Hawaiian People)" in violation of Title VI and Part 7. In addition, the complaint includes a Petition to Withdraw Hawaii Certification, which seeks the withdrawal of "Hawaii's authorization and approval to administer all agency programs." The purpose of this letter is to inform you that the Title VI administrative complaint has been rejected by OCR and the Petition to Withdraw Hawaii Certification is being considered by EPA Region 9.


The Title VI complaint does not state a cause of action because it is moot. The complaint alleges that the State of Hawaii discriminated by allowing mercury contamination to occur in a community of Pacific Islanders, African Americans, Asians, and Native Hawaiians. That allegation has been rendered moot because Hawaii conducted a clean-up of the mercury contamination. If the clean up had not occurred, the allegation may have stated a cause of action, but, because the site was remediated, the allegation is moot. Based on these considerations, OCR

has no recourse but to reject the complaint.

To the extent the complaint concerns Hawaii's allegedly inadequate environmental investigative and enforcement capabilities, those issues will be addressed as part of the Petition to Withdraw Hawaii Certification, which OCR has forwarded to EPA Region 9 for its consideration. In a letter dated June 26, 2001, EPA Region 9 informed you that it had received your petition and would contact you as soon as possible with any determinations it makes. If you have any questions related to that petition, please call Jo Ann Asami in Region 9 at (415) 744-1359.

If you have any questions about this letter, please contact Eva Hahn by phone at (202) 564-8186, by e-mail at hahn.eva@epa.gov, or by mail to the U.S. EPA (Mail Code 2201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,


Karen D. Higginbotham
Acting Director

cc: Dr. Bruce Anderson, Director
Hawaii State Department of Health

Robert E. Fabricant, General Counsel
Office of General Counsel (MC 2310A)

Rafael DeLeon, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Sylvia Lowrance, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance (MC 2201A)

Barry Hill, Director
Office of Environmental Justice (MC 2201A)

Wayne Nastri, Regional Administrator
EPA Region 9

Jo Ann Asami, Title VI Coordinator
EPA Region 9

Gail Ginsberg, Chair
Title VI Task Force (MC2201A)